

**United States Department of Labor
Employees' Compensation Appeals Board**

D.S., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Hummelstown, PA, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 11-1708
Issued: May 9, 2012**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Judge
COLLEEN DUFFY KIKO, Judge

On July 18, 2011 appellant filed an application for review of a May 4, 2011 decision of the Office of Workers' Compensation Programs (OWCP), claim number xxxxxx342, which denied modification of a December 22, 2008 decision terminating appellant's compensation based on a refusal of suitable work.¹ The appeal was docketed as No. 11-1708.

In the May 4, 2011 decision, OWCP noted reviewing the other claim files and medical evidence, specifically noting appellant had a separate claim, number xxxxxx583, for a February 12, 1994 injury which was accepted for a herniated disc and lumbar surgery was performed.² It noted that appellant's benefits were terminated in claim number xxxxxx342 based on a report from Dr. Robert Draper, a second opinion physician. In a May 27, 2008, report, Dr. Draper advised that appellant underwent an initial lumbar discectomy in 1995 and her current medical conditions and need for a subsequent revisionary laminectomy at L3-4 and L4-5

¹ On October 21, 2000 appellant injured her back while moving a piece of equipment at work. OWCP accepted appellant's claim for left thigh contusion and later expanded her claim to include herniated disc at L5-S1. It authorized surgery and on June 10, 2002, Dr. William Beutler performed a revision of the bilateral laminectomy at L3-4 and L4-5 with total bilateral laminectomy at L5-S1 and bilateral mass fusion from L3-S1.

² The complete medical records and factual information pertaining to this claim are not in the record before the Board.

and L5-S1 in 2002 were work related and present since 1994. He diagnosed recurrent herniated nucleus pulposus at L4-5 and L5-S1, status post revision and decompression and laminectomy at L3-4, L4-5 and L5-S1 and status post prior lumbar discectomy in 1995.

The Board has duly considered the matter and notes that the case is not in posture for a decision. The claim before the Board, number xxxxxx342, involves appellant's claim for a traumatic injury involving the back. In the May 4, 2011 decision, OWCP noted reviewing evidence and findings made in claim number xxxxxx583 in reaching its decision. In addition, it based its decision to terminate appellant's benefits on the report of Dr. Draper who opined that her current medical conditions and need for a subsequent revisionary laminectomy at L3-4 and L4-5 and L5-S1 in 2002 were work related and present since 1994. The evidence indicates that file number xxxxxx583 may have evidence germane to claim number xxxxxx342.

Pursuant to its procedures, OWCP has determined that cases should be combined where correct adjudication depends on cross-referencing between files. In the instant appeal, it appears that, for a full and fair adjudication, OWCP claims pertaining to appellant's lumbar conditions should be combined pursuant to OWCP procedures.³ This will allow OWCP to consider all relevant claim files in developing appellant's claim.

The case will be remanded to OWCP to combine case file numbers xxxxxx342 and xxxxxx583. Following this and such other development as deemed necessary, OWCP shall issue an appropriate merit decision on appellant's claim.

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

IT IS HEREBY ORDERED THAT the May 4, 2011 decision be set aside and the matter remanded to the Office of Workers' Compensation Programs for further proceedings consistent with this order of the Board.

Issued: May 9, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board